

***Draft* MEETING MINUTES**
CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council
Housing Authority Commission and the Economic
Development Corporation

Date: Tuesday, August 5, 2014

Time: 6:00 PM Closed Session / 7:00 PM Open

Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 6:00 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano, Gomez and Montano

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss litigation and labor negotiations.

City Council then convened in Open Session at 7:12 PM.

ANNOUNCEMENT

None out of Closed Session.

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Debbie Giordano said a brief prayer to start the meeting.

MEETING MINUTES

Motion: to approve the minutes of the June 17, 19 and July 3, 2014 City Council meetings

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for August 2014

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

PUBLIC FORUM

Patricia Joki, retired Fire Marshal for City of Milpitas, resident of Pleasanton, sought help with an unfair situation related to benefits, for reimbursement for vested retirees' medical coverage. She was wanted a fair solution for her and retired Fire Battalion Chiefs.

Councilmember Gomez noted that City staff could look at what City of San Jose did with overpayment of military benefits in that City, which might apply to situation in Milpitas.

A man who lived in the Transit Area of Milpitas, spoke on the McCandless site and read that the City was willing to sell land now. He would like the land to go to a public school, not private.

A man who lived in the Transit Area, said thanks for the joint meeting that was scheduled between the City and the schools. He would like there to be a public school on that land, not a private entity. With the housing market, he moved there expecting a new school as the driving force.

Robert Marini, Milpitas resident, announced he was running for Mayor of Milpitas, and began to express himself on the campaign. City Manager and City Attorney said there was no campaigning from the dais. He continued with remarks on issues: the Senior Center should be opened on the weekend; City Councilmembers should not have a pension when they finish their terms on the Council; and the City was not responsive to people of Milpitas.

A man who lived in the McCandless area, said thanks for having a joint meeting with School District very soon. Residents in his area were seeking a public school in that area.

Rob Means, 1421 Yellowstone resident, mentioned money, economy of mother nature, the planet, and to keep that in mind to preserve earth, to sustain us. He urged a school in the transit area.

A young man, a Milpitas resident, asked why the noise ordinance was adopted. He also asked what was the status of whether Milpitas would have a skate park. The City Manager invited the man to call him at City Hall, or send him an email so he could respond to these topics which were not on the agenda.

A man who lived in the Transit Area, asked when would there be a park in that neighborhood. The City Manager replied that there was already a concept preliminary design, that would come to make a final design soon with input from Homeowner Associations in that area.

A man who lived in the Transit Area, asked about a road blocked near McCandless. The City Manager responded that the City was waiting for the water quality control board to issue a permit in order to then open the roadway. Public Works Director Jeff Moneda mentioned crosswalks needed to be constructed first and noted steps in the process.

Dan Bobay, MUSD Board Vice President, asked for a point of clarification about the desire of the City Council to have a public school on the McCandless site. City Attorney Mike Ogaz noted this was an item for Closed Session.

A man who lived in the Transit Area, asked about a public school to compete with a private one for the same parcel on McCandless in the transit area.

ANNOUNCEMENT

Mayor Esteves offered thanks to staff for a great July 4th celebration last month.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Ogaz asked City Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as

City Manager Williams made an oral reminder of a relatively new law requiring an announcement of all votes of the City Council which must be publicly reported after each vote.

Councilmember Montano requested to pull from consent Item No. 6 (support for Early Learning Nation) and Item No. 17 (on Sports Center Improvements).

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

- * 3. Odor Control Report Received the odor report update.

- * 7. Appointments to Commissions Approved Commission appointments recommended by Mayor Esteves:

Senior Advisory Commission:
Appointed Jae Kuk Wi as a voting member to a term that will expire in December 2014.
Appointed Jenny Berryhill as Alternate No. 1 to a term that will expire in December 2015.
Newly appointed Willy Wong as Alternate No. 2 to a term that will expire in December 2014.

Sister Cities Commission:
Newly appointed Mikayla Horyza as the non-voting student member to a term that will expire in September 2016.

Veterans Commission:
Appointed Liliana Ramos as a voting member to a term that will expire in February 2016.
Appointed Allen Thomas as Alternate No. 1 to a term that will expire in February 2016.
Newly appointed Andre Ramones as Alternate No. 2 to a term that will expire in February 2016.

- * 8. Sister Cities Commission Approved the FY 2014-15 Annual Work Plan of the Milpitas Sister Cities Commission.

- * 9. Investment Portfolio status Received the investment report for the quarter ended June 30, 2014.

- *10. Resolution – Investments Adopted Resolution No. 8395 approving the Annual Investment Policy, including two new changes.

- *11. Resolution – BAWSCA Adopted Resolution No. 8396 authorizing the Bay Area Water Supply & Conservation Agency to initiate and settle arbitration disputes related to the Water Supply Agreement with the City and County of San Francisco.

- *12. Resolution – uniform clothing contract Adopted Resolution No. 8397 awarding to and approving a contract with Matthew W. Adams, an individual doing business as All-Line Uniform Sales, to furnish annual clothing requirements for city employees in an amount not-to-exceed \$14,434.24, and authorize the City Manager to exercise up to four annual renewal options, subject to appropriation of funds and without further City Council approval.

- *13. Resolution – backflow prevention Adopted Resolution No. 8398 awarding to and approving a contract with Jordan C. Lee, an individual doing business as AAA Backflow Prevention Services, for backflow testing, certification and maintenance repair, in an amount not-to-exceed \$49,310 and authorize the City Manager (or his designee) to exercise up to three annual renewal options.

- *14. Resolution – software purchase Adopted Resolution No. 8399 approving the agreement with eCompliance, Inc. for the purchase and installation of Uniform Hazardous Materials Program Consolidated Forms software for the initial annual amount of \$8,000; and authorizing the City Manager to exercise up to four annual renewal options in the annual amount of \$3,500, with annual fee increases not to exceed the Consumer Price Index or 5% each year, whichever is less, subject to appropriation of funds and without further City Council action.

- *15. Resolution- accept project Adopted Resolution No. 8400 granting final acceptance of the City Hall Audio Visual System Upgrade, Project No. 9001 and release of the contractor's bond.

- *18. Amendment No. 3 – fire suppression inspection Approved Amendment No. 3 to the Agreement with Intelligent Technologies and Service, Inc. for fire suppression system inspection, testing, maintenance and repair at City Hall for the not-to-exceed amount of \$5,586.00.

- *19. Amendment No. 1 with Peele Technologies Approved Amendment No. 1 to the Agreement with Peele Technologies, Inc. to extend the agreement for document imaging services from July 31, 2014 to July 31, 2016 for the annual not-to-exceed amount of \$50,000.

*20. Pay Invoices to Preston Pipeline

1. Received this report of Dempsey Road water main emergency repair work from the Public Works Director and authorize staff to pay invoice in the amount of \$45,814.89.
2. Approved a budget appropriation in the amount of \$45,814.89 from the Water Fund to the Public Works FY 2013-14 operating budget.

PUBLIC HEARINGS

1. Pakistan Flag Ceremony request

City Clerk Mary Lavelle presented the request from the Pakistan American Culture Club of Milpitas to hold a ground level flag ceremony on Thursday evening, August 14 outside City Hall, in the back patio outside the Committee Room. She described forms filed, fees to be paid and the code requirement for this hearing prior to Council's approval.

Applicant Mr. Mohammad Aboobaker explained the educational and cultural purpose for the organization and the planned flag event on Pakistan Independence Day. The group would celebrate the date of Pakistan independence on August 14. Local Cub Scouts would help with carrying the flags, and the community was invited.

Mayor Esteves opened the public hearing for comments.

Mr. Amhammad, a Milpitas resident since 1991 with a background from Pakistan, was glad when he learned of this special event in Milpitas. He thanked the City Council for allowing this ceremony to occur in this City.

(1) Motion: to close the public hearing, following comments

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to approve the request for a ground-level flag ceremony by the Pakistan American Culture Club of Milpitas on Thursday, August 14, 2014

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

2. Weed Abatement Program

Fire Marshal Albert Zamora described the need to remove the public nuisance, namely weeds, on certain properties in the City of Milpitas. Those whose properties were cleared of weeds by the Santa Clara County Agriculture Department, following notification, would be liened for the costs on their property tax bill. He referred to the list of properties and the owners who were notified (per list with Resolution in the Council's agenda packet). Mr. Zamora introduced Mr. Moe Kumre from the County Department of Agriculture who was present to answer any questions.

Mayor Esteves inquired if the City could include public agencies in this program. For example, Caltrans whose property at highway off-ramps in Milpitas was full of weeds. Fire Marshal Zamora responded that he was already working with new staff at Caltrans, and was planning to go around to the interchanges with staff from that state agency, including a discussion on homeless encampments and fires.

City Manager Williams remarked on the large amount of litter at some intersections. City staff would be notifying Caltrans to pick it up.

Next, the Mayor opened public hearing and no one came to the podium.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to adopt Resolution No. 8393 with the list of properties to be assessed for the annual Weed Abatement program for 2014

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

REPORTS OF MAYOR

4. In God We Trust motto

Mayor Esteves asked for approval to install the national motto “In God We Trust” in public facilities throughout the City. This was based on a request the Mayor had received over the summer from a City Councilmember from Bakersfield, CA.

City Attorney Mike Ogaz read aloud the title of Ordinance No. 288, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 1 of Title I of the Milpitas Municipal Code Relating to Installation of the National Motto “In God We Trust” Within City Council Chambers and Other Public Buildings.”

(1) Motion: to waive the first reading beyond the title of Ordinance No. 288

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to introduce Ordinance No. 288

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

5. Agreement with Water Solutions Inc. for Feasibility Study \$229,000

Mayor Esteves addressed the City Council about the reason for a study on water supply, and the potential for a water supply storage facility. He noted the current drought, and the reduction in water supply from the City’s two current water providers. There could be a continued increase in wholesale water costs, which then gets passed on to customers. The study was desired to learn if the City had maximized use of recycled water and to save on the use of potable water, among other topics. He believed the recommended study was very well worth the cost, to learn what the City could do soon to take action to save and store needed water.

Principal Engineer Steven Machida explained the purpose and goal of the proposed water supply augmentation feasibility study. He provided much background information and history, and reviewed the scope of work for a feasibility study, and the expected cost. For example, deep water wells would be studied as one supply alternative.

Vice Mayor Polanski commended the Mayor and staff for being forward-looking on this important water issue.

Councilmember Montano expressed concern for the added cost, over \$200,000, on behalf of the residents for this expense. She felt there were various sources of water already, including existing wells. Mr. Machida responded with some facts on wells. Ms. Montano

was opposed to the study since she felt the Santa Clara Valley Water District already did most of the items identified by staff.

Councilmember Giordano was in support. The City needed to have a specialty expert in this area, so she understood why staff would need to turn to an expert consultant to recommend alternate water sources, for the future.

Vice Mayor Polanski responded that the Water District already had specific goals for the county, and when the City goes to the District for water, it raised rates on the City, as SFPUC did also. The Water District had its own bureaucracy, which did not operate in Milpitas.

Next, Mayor Esteves asked for comments from the audience.

Robert Marini, Milpitas resident, fully agreed with Councilmember Montano and did not support the cost for a consultant or a study. Residents were all in it together, regarding the drought. The problem was increased population and more housing getting developed.

Voltaire Montemayor, Milpitas resident, was for water and in favor of a study being done by a consultant for water sources. Comfort and health of City residents was important.

Rob Means, 1421 Yellowstone resident, spoke of water use, drought and global warming. Taking this step made sense to him, even if the results were not what were expected. Water conservation was “low hanging fruit” with much more useful programs done in other areas, for example to prevent contamination of water sources by large corporations.

Councilmember Montano would like to remove desalination as part of the study because it was unrealistic, and to add looking into use of gray water with a rebate system.

Motion: to approve a consultant agreement with Water Solutions Inc. for a feasibility study regarding water supply augmentation for a not-to-exceed amount of \$229,000 for the term from August 5, 2014 to July 31, 2015; and, to approve a budget appropriation of \$229,000 from the Water Fund to the Utility Engineering Operating Budget

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 4
NOES: 1 (Montano)

6. Resolution on Early Learning Nation

Councilmember Montano removed this item from the consent calendar, in order to express her support for the resolution recommended by the Mayor. It paralleled one adopted by the First 5 of Santa Clara County. She believed in pre-school for all children. She supported a Family Resource Center arriving soon in Milpitas, with a grand opening expected in September.

Motion: to adopt Resolution No. 8394 in support of a national commitment to building an Early Learning Nation by the Year 2025

Motion/Second: Councilmember Montano/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

RESOLUTION

16. Resolution for Ballot Measure on Card Room

City Manager Tom Williams introduced the request to call for a ballot measure to approve regulations for a possible card room and a tax for voter approval in November. He provided background and current financial information. Mr. Williams summarized the ordinance’s provisions. He made it clear that this action would not approve a card room or a tax, as those actions would need to be approved by Milpitas voters.

Councilmember Giordano agreed there were pros and cons on this issue. As in the past, she supported the matter being decided by voters of the City.

Councilmember Gomez thanked the City Manager for his work on this topic, as one effort to look at ways to bring revenue to the City, after the Redevelopment Agency was lost. He asked about the estimated \$8 million revenue for the General Fund per year versus other highest revenue generators. The City Manager replied this would be more money than current highest and no one source provided this amount. Mr. Gomez and Mr. Williams commented on the legislative process in Sacramento regarding legislation to permit the potential card room in Milpitas. It appeared favorable.

Councilmember Montano asked about problem gaming and urged a hotline by phone be available. She would also like to have an onsite police satellite station at the card room (similar to Great Mall). She asked about wages paid to those who construct the building, and if prevailing wages would be required. This concept was a good thing to help out the City and residents.

Vice Mayor Polanski echoed remarks by Councilmember Gomez. The location was viable for a project of this type. She agreed with Councilmember Giordano to get the public to give the City Council its direction. The result of the vote could give resources to the City budget without another special tax, such as a City-only sales tax.

Mayor Esteves asked staff to display the onscreen the current location of Bay101 card room in San Jose, to show it was relatively close to the Milpitas border. About three miles from its location now was the proximity to the McCarthy Ranch-area proposed site. The Mayor talked about maximizing the use of land, specifically at McCarthy Ranch.

City Manager Williams responded that this was an economic development issue. Mayor Esteves asked about the use of the potential \$8 million in revenue for the City. The Mayor wished to maintain the Pavement Condition Index on City roads, to contribute to asset or infrastructure replacement fund, and maintain the storm drain system needed in Milpitas.

Next, Mayor Esteves invited speakers from the audience.

Robert Marini, Milpitas resident, asked how late a card room would stay open. Giving voters a chance to vote on this matter, and taking that away from City Council was good.

Sarah McDermott, resident of the unincorporated County, spoke on behalf of a union, the United Care Workers which represented Bay 101 workers in San Jose. The union was in favor of the item presented here to City Council. Quality jobs in Santa Clara County, specifically in Milpitas, were desirable if and when the card room moved here.

Rob Means, 1421 Yellowstone resident, felt that getting revenue from this source would be better than from a sales tax, in terms of fairness to various income levels. Sustainable and family friendly would be important for all new development, so he had questions. The City needed revenue certainly but a card room was not the only source.

Vice Mayor Polanski, was not a candidate for office this year, and it was election season now. She pointed out that the City Council meeting was not the place to come and campaign for office. She did not want to hear campaigning in the Council Chamber during the next three months.

Voltaire Montemayor, Milpitas resident, commented on the card room that at its start, people would rush in and cause traffic congestion.

Following the last speaker, the Mayor asked his colleagues for any motion on this issue.

Motion: to adopt Resolution No. 8392 calling and giving notice of submission to Milpitas electors at the Municipal Election on November 4, 2014 a ballot measure proposal to add - per proposed Ordinance No. 288 - Chapter 8 to Title III of the Milpitas Municipal Code related to issuing a license to operate a card room in compliance with state law and imposing a card room tax at the rate of 10.5% of gross revenues.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

AGREEMENT

17. Agreement – Sports Center Pool Improvements

Councilmember Montano removed this item from consent, with a question about the removal of the wading pool at the Sports Center pool complex area. Engineer Steve Erickson, responded it had been shut down for some time already and was empty. It might be possible to put that area to its best use as a picnic or other use or possibly another outdoor feature, working with Recreation staff.

Councilmember Montano asked about the Sports Center pool re-vamp project and whether prevailing wages were being paid to the contractor. Mr. Erickson replied it was a construction contract and the contractor would use prevailing wages while the City paid a fixed fee for the contract on the agenda for this item.

Motion: to approve a consultant agreement with BFGC Architects Planners, Inc. doing business as IBI Group Architecture Planning in the amount of \$76,000 and for a term to June 30, 2016 for the Milpitas Sports Center Pool Improvements, Project No. 3408

Motion/Second: Councilmember Montano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

JOINT MEETING

Call to Order/Roll Call

At 9:43 pm, Mayor Esteves called the joint meeting of the City Council, Housing Authority Commission and the Economic Development Corporation to order. All members were present.

Approve Agenda

Motion: to approve the joint meeting agenda and the one consent calendar item

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

*** 3. Joint Resolution**

Adopted Joint Resolution No. 8401 / HA 13 / EDC 5 authorizing conveyance of certain real property to the City of Milpitas for public and economic development purposes and acceptance of those conveyances by the City; and, approved interfund loan of \$5,000,000 from the 2% Transient Occupancy Tax Fund to the Transit Area Impact Fee Fund.

ADJOURNMENT

Mayor/Chair Esteves adjourned the joint City Council, Housing Authority and Corporation meeting at 9:44 PM.

*Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk*